

**To: CHRO Advisory Group**

<b>From: CHRO Operations and Affirmative Action Subcommittees</b>
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**Re: Final Recommendations**

- The subcommittees on CHRO Operations and Affirmative Action volunteer to remain in effect as a viable resource during the implementation of these recommendations. The group volunteers to research and develop Best Practices and to draft proposed legislation and guidelines as necessary.

**I. Executive and Legislative Commitment**

- The Governor should publically reaffirm her and the state's commitment to diversity initiatives, equal employment, affirmative action and civil rights.
- State agency heads should be trained regarding the legal authority for Affirmative Action, their obligations thereto, and their responsibility to guarantee a nonbiased discrimination complaint process within their agencies. Current regulations should be strengthened to ensure consequences for agencies that maintain a pattern of noncompliance.
- The civil rights agency should be adequately resourced so that it can effectively fulfill its mandate to protect the equal rights of all Connecticut citizens. This would include staff to fulfill its responsibility to provide training to consumers on complaint handling, affirmative action plan development and implementation, and contract compliance; resources to reinstate the regular site visits to agencies and construction sites to ensure compliance with regulation; and modern technology necessary to provide better accessibility to its services throughout the state.
- The state has seen a consistent decline in the number of staff assigned equal rights, affirmative action and contract compliance duties in state agencies. This suggests a lack of commitment and understanding on the part of agencies to the regulations and statutory obligations of affirmative action and anti-discrimination. Legislation should be enacted that requires a direct correlation between the size of an agency's total workforce and the size of the affirmative action staff.

## **II. Structure of CHRO**

- There shall be an Office of Civil Rights that shall be an independent state agency and shall constitute a successor agency to the Commission on Human Rights and Opportunities, in accordance with the provisions of sections 4-38d and 4-39.
- Within the Office of Civil Rights, there shall be the Civil Rights Advisory Council that shall consist of nine members, appointed as is currently done. The Council shall: appoint the executive director of the Office of Civil Rights; make legislative recommendations to the General Assembly and report annually, prior to April fifteenth, to the Governor summarizing the activities of the Office of Civil Rights; enter into such contractual agreements as may be necessary for the discharge of its duties, within the limits of its appropriate funds and in accordance with established procedures; to recommend policies and make recommendations to agencies and offices of the state and local subdivisions of government to effectuate the policies of sections 46a, inclusive; to hold public hearings; investigate the possibilities of affording equal opportunity of profitable employment to all persons with particular reference to job training and placement; compile facts concerning discrimination in employment, violations of civil liberties and other related matters; focus on the identification and elimination of issues that have a disproportionate impact on protected classes within the state of Connecticut; and investigate and proceed in all cases of discriminatory practices as provided in this chapter and noncompliance with the provisions of section 4a-60 or 4a-60a. The Council would provide guidance and advice to the Governor on systemic issues regarding discrimination, affirmative action, and diversity within the state. They would serve as an advisory body seeking to identify problem areas and potential solutions and help drive the public agenda of the state in terms of eradicating discrimination within the state.
- The Executive Director of the Office of Civil Rights shall be appointed for an open-ended term. The Executive Director shall be the sole figurehead and decision maker of the agency. The functions and duties of the Executive Director shall be related to running the operations of the agency, overseeing personnel, and managing the agency budget and resources. Vest in this position the authority and discretion to appoint two Bureau Directors, each with responsibility over a specific area: (i) Field Operations/Investigation of Charges of Discrimination; and (ii) Affirmative Action and Contract Compliance. The Executive Director shall also be able to hire a Managing Attorney/General Counsel for the agency. The intent is that individuals holding civil service jobs at the Office of Civil Rights and other agencies would be elevated to these Bureau Director roles with the right to return to their civil service jobs following the completion of their services to the Executive Director, without loss of seniority or other accrued rights.
- Direct the Department of Administrative Services to review staff positions in the field of Affirmative Action within the Office of Civil Rights and state

agencies for proper classification and compensation. For example, the position of CHRO Rep is utilized throughout the agency and should be analyzed for appropriateness of assigned duties and use.

- The civil rights agency should submit an annual report that reflects the progress of diversity and affirmative action initiatives throughout the state. This shall include an annual report card for all agencies to measure their diversity, affirmative action, set aside and contract compliance programs, and the integrity of their complaint handling. This report card will also serve to inventory and catalogue Best Practices in the field from which all agencies can learn. Legislative changes shall be enacted that include real consequences for agencies that refuse to cooperate.

### **III. The Complaint Process**

- Amend the current statute to allow Complainants to request withdrawal of their charge and a release of jurisdiction letter when 150 days have passed since the filing of the charge. This is consistent with waiting periods that exist in other states and may help improve backlog at the agency.
- Increase the Office of Civil Rights use and implementation of mediation and conciliation procedures that already exist in the agency regulations. Train and educate Investigators (and Regional Managers) to invoke mediation steps early on in the process. Institute the use of an inquiry form for investigators to use with Complainants to determine "what the Complainant wants" and then encourage communication of those issues to Respondents early on to try and effectuate early resolution of cases. Simply including a form with checkboxes in the packet of materials that goes to the Respondent is not sufficient in making resolution a priority.
- Institute more training for investigators in all aspects of the investigative process, including mediation skills, interviewing and investigation skills, legal updates, etc. The Commission Counsel should take responsibility for this area and identify and implement training on a regular basis for staff in investigatory roles.
- Create more user-friendly procedures for filing charges of discrimination. Establish an Information Officer whose primary duties will be to update the agency's web presence and to publish updated and current forms and materials via the internet.
- In light of the delay with intake procedures, the Human Rights Referees should be assigned to do complaint intake via phone or in person, in the rotation with other investigators at the agency, so that intake officers are available every day for appointments and assistance - including walk-in assistance.
- Findings of the internal investigation conducted by agency Affirmative Action staff shall be required as part of the Office of Civil Rights investigation. Consideration should be made to bring consistency between timelines for the

Office of Civil Rights complaints and the agency internal complaint procedures.

- Areas of conflict within the complaint process shall be addressed. A distinction shall be made between Human Resource professionals and agency Attorney General Designees. Human Resource professionals shall not serve as Designees as it presents a conflict of interest for Human Resources to investigate discrimination complaints regarding personnel and labor matters. Additionally, legislation should be introduced that allows for all discrimination complaints to be handled by the Department of Administrative Service's Smart Unit when filed in small agencies where the duties of Human Resources and Affirmative Action are handled by the same person.

#### **IV. Agency Affirmative Action Plans**

- The Office of Civil Rights should broaden the focus of affirmative action and diversity within all state agencies. Regulations review should occur. In the future an agency affirmative action plan should look beyond only the narrow issue of employment by race, color and sex. It should encompass a more comprehensive view of diversity within an agency. It shall look at not only the recruitment of protected class members, but the retention of them. It shall examine the initiatives the agency is undertaking to meet the needs of its employees and customers in a multicultural competent way, and look at how the agency is providing equal access of its services to members of all groups offered protected class status in the state of Connecticut. It should provide a far-reaching holistic approach to becoming an inclusive workplace, expanding beyond the unrealistic quest for parity.
- In order to mitigate the current adversarial relationship between the CHRO and state agencies, there should begin a conversation - to open a dialogue focused on developing relationships and promoting ongoing communication.
- The Office of Civil Rights regulations should be revised so that agencies with approved plans submit on a biennial basis. During the off year, each agency would submit a report outlining its numeric and programmatic goal achievement to the Office of Civil Rights for review and comment. Disapproved plans would be submitted, in their entirety, on an annual basis.
- Written guidelines which are consistent, measurable and quantifiable for the standard of review for agency affirmative action plans should be developed, published and distributed widely. The standard of review should be modified to include diversity initiatives, hiring and proactive programming in addition to numerical achievements.